

City Of Houston
Building Services Department
P.O. Box 61189
Houston, TX 77208-1189

REQUEST FOR PROPOSAL

City of Houston Consumer Choice Initiative

PROPOSAL MUST BE RECEIVED BEFORE:

March 15, 2006

**HAND DELIVER OR
EXPRESS MAIL RESPONSES TO:**

City Secretary of the City of Houston
900 Bagby, Public Level
Houston, TX 77002
Attn: Issa Dadoush, P.E. Director - Building Services Department

OR SEND VIA E-MAIL TO:

Issa.Dadoush@cityofhouston.net

REFER INQUIRIES TO:

Don B. Whaley
Whaley Energy Consulting, L.L.C.
Email: whaleyenergy@mac.com

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1.0 INTRODUCTION AND SCOPE OF WORK

1.1 STATEMENT OF INTENT AND BACKGROUND

The City of Houston will solicit offers for the sale of electricity to Houston residential consumers and will publicize these offers from qualified Retail Electric Providers to promote competition and educate consumers. The goal of the Initiative is to assist the residents of Houston in making a more informed choice concerning their electricity supplier and thereby reduce the cost of electrical power or emissions associated with electrical power.

1.2 CITY OF HOUSTON'S COMMITMENT TO THE INITIATIVE

The details and timeline of the Initiative are more fully described below but a few additional highlights evidencing the City's commitment to the Initiative are as follows:

- The Mayor will announce terms offered by qualified providers at a press conference to be held during the week of March 27, 2006.
- The City of Houston will use best efforts to procure media time and related production valued at at least \$800,000 gross for the three week period immediately following the date of the Mayor's press conference.
- The names of Qualified Participants and their pricing terms, number of customers, and years in business will be listed on a separate webpage with links to their respective Internet enrollment sites or the address of their choosing.
- The City will use every effort to enlist the support of local media, non-profits, civic and commercial organizations, elected officials and community leaders to ensure maximum market penetration and consumer awareness.

1.3 QUALIFICATIONS

1.3.1 FINANCIAL CRITERIA

REPs selected for participation must meet one of the following financial standards:

- 1.3.1.1 The REP must meet or exceed the Financial Standards set forth in Section 25.107(f) (1) (A) (i) or (ii) of the Substantive Rules Applicable To Electric Service Providers; or
- 1.3.1.2 The REP must maintain unused cash resources of at least \$100,000. Additionally, at all times, the REP shall have maintained unused cash resources equal to at least forty percent (40%) of total billings from TDUs in the State of Texas for the prior month. The REP shall maintain this same ratio of unused cash resources to TDU billings on an ongoing basis. For the purposes of this section 1.3.1.2, the term "unused cash resources" shall have the meaning applied in Section 25.107(f) (1) (C), (D), (E) of the Substantive Rules Applicable To Electric Service Providers.

In addition to the foregoing, REPs not meeting the financial standards set forth in sections 1.3.1.1 must submit the following additional information:

- a. An affidavit signed by an Officer of the company certifying that the REP began serving residential electric customers within ERCOT on or before March 1, 2004 and has maintained continuous operations in the ERCOT market since that date.
- b. Audited financials for the most recent fiscal year for which they have been prepared but in no event for periods ending earlier than fiscal years ending in calendar year 2004.
- c. The REP must provide the data requested in Attachment B and provide an affidavit signed by an officer of the company attesting to the accuracy of the information contained therein.
- d. An affidavit signed by an officer of the company certifying that the REP is not in material default of any covenant to a creditor.

1.3.2 CUSTOMER SERVICE STANDARDS

REPs selected for participation must have a Complaint Ratio of One Percent (1%) or less as determined in the following manner:

Complaint Ratio = Total Complaints / Total Active Customers

For the purposes of this calculation:

Total Complaints will mean the total number of customer complaints against the REP within the immediately preceding twelve (12) months that have been filed with the Public Utility Commission of Texas and found to be valid.

Total Active Customers will mean the total number of non-Price-to-Beat residential customers being served by the REP within the Electric Reliability Council of Texas (ERCOT) as of March 1, 2006

2.0 ADMINISTRATIVE INFORMATION & GENERAL REQUIREMENTS

2.1 CONTACT, INQUIRIES, AND INTERPRETATIONS

2.1.1 For purposes of this RFP the City is represented by, and questions arising during the RFP process may be directed to:

Don B. Whaley
Whaley Energy Consulting, L.L.C.
Email: whaleyenergy@mac.com

2.2 ESTIMATED TIMETABLE

Release of draft RFP	February 7, 2006
Release of final RFP	February 23, 2006
Deadline for Receipt of Proposals	March 15, 2006
Evaluation of Proposals Completed.....	March 20, 2006
Notification of Qualified Proposers.....	March 21, 2006
Deadline for update to initial pricing.....	March 22, 2006
Meeting with Qualified Proposers and City.....	March 24, 2006
Marketing of Consumer Choice Initiative Begins.....	March 29, 2006

3.0 ACCEPTANCE/REJECTION OF PROPOSALS

3.1 RIGHT OF DECISION

The City reserves the right to make all decisions regarding this RFP and the proposals received as a result of this RFP, including, without limitation, the right to decide whether a proposal does or does not substantially comply with the requirements of or meet the objectives of this RFP.

3.2 UNACCEPTABLE TERMS & CONDITIONS

Terms and Conditions which are added or attached by a Proposer which are determined to be unacceptable to the City may result in the disqualification of the Proposer's proposal. Unacceptable conditions would include any terms that would mislead or confuse the average customer regarding their rights under the agreement or seek to exclude a specific class of residential customers. Likewise, proposals with conditional clauses or terms, alterations, or irregularities of any kind, are subject to disqualification by the City.

3.3 PROPOSER'S ACCEPTANCE

SUBMISSION OF A PROPOSAL INDICATES PROPOSER'S ACCEPTANCE OF THE EVALUATION TECHNIQUE DESCRIBED HEREIN IN SECTIONS 3 AND 4 AND PROPOSER'S RECOGNITION THAT SOME SUBJECTIVE JUDGMENTS MUST BE MADE BY THE CITY.

3.4 RIGHT OF REJECTION

The City reserves the right to reject any or all proposals received if it determines in its sole discretion that the proposals received will not achieve the objectives set forth in Section 1.1 “Statement of Intent and Background” above.

4.0 EVALUATION CRITERIA AND AWARD PROCEDURES

4.1 EVALUATION TEAM

The City will utilize an Evaluation Team to evaluate whether the proposals received as a result of this RFP meet the goals and criteria of this RFP.

4.2 PROPOSER’S PRESENTATIONS

The City reserves the right to invite, following the initial review of each proposal received, any or all Proposers to make a more detailed presentation to the Evaluation Team. The City shall not be responsible for any cost incurred by the Proposer.

5.0 FORM OF PROPOSAL

Proposal submittals must include the following information:

- a. Completed Proposer’s Questionnaire with all associated attachments. (Attachment A)
- b. Terms and Conditions of Service and Consumer Fact sheet for each service offering submitted.

6.0 OTHER SUBMITTAL INFORMATION & REQUIREMENTS

6.1 DEADLINE

All proposals must be received **no later than 2:00 p.m. March 15, 2006. *Proposals received after this deadline will not be accepted or considered.***

6.2 ADDRESS/LOCATION

Proposals must be submitted via hand delivery or express mail to:

City Secretary of the City of Houston
900 Bagby, Public Level
Houston, TX 77002
Attn: Issa Dadoush, P.E., Director - Building Services Department

Or sent by e-mail to:

Issa.Dadoush@cityofhouston.net

ATTACHMENT “A” PROPOSER’S QUESTIONNAIRE

DATE: _____

The Proposer recognizes that the City will rely on the answers provided in response to this questionnaire. Proposer warrants to the best of its knowledge that all responses are true, correct and complete. The City reserves the right to confirm this information listed below and shall be free from any liability to Proposer for conducting such inquiry.

Corporate/Financial

- a. Number of Years in Business: _____
- b. Date on which you enrolled your first residential customer in the State of Texas _____
- c. Date on which you enrolled your first residential customer in the City of Houston _____
- d. Does your company qualify for participation under section 1.3.1.1 or 1.3.1.2? _____
 - 1. If Section 1.3.1.1, please provide documentation which substantiates your company’s method of qualification.
 - 2. If section 1.3.1.2, please provide the information requested in that section.
- e. Is your company currently for sale or involved in any transaction to merge with or to become acquired by another business entity? If yes, please attach a written explanation of the impact both in organizational and directional terms.
- f. Provide in writing and attach to this form details of any material contingent liabilities.
- g. Is your company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? (yes/no) _____ If yes, specify date(s), details and circumstances.

Customer Base / Customer Service

- a. Do you have a manned 24-hour call center serving your ERCOT customers? (yes/no) If yes, what is the minimum / maximum number of employees answering customer calls in the course of the day? _____
- b. What is the maximum number of customers that could be accurately enrolled in one week given your current CRM and billing platform? _____

- c. How many competitively acquired (i.e. Non-Price to Beat) residential customers are you currently serving within:
 - 1. The State of Texas? _____
 - 2. The City of Houston? _____
- d. What is your average load in MWh? _____
- e. How many formal complaints have been filed with and been deemed valid by the PUC regarding your services to residential consumers within the last 12 months? _____
- f. Does your company have formal policies/procedures in place to ensure customer satisfaction and complaint resolution? (yes/no) Can you elaborate?
- g. If qualified to participate in the Consumer Choice Initiative will you agree to notify the City of Houston's designated representative of any complaints filed with the PUCT by customers enrolled under the Initiative and your resolution of same? (yes /no) _____

Service Offering

- a. Please provide one or more of the following :
 - 1. A 12-month fixed price service offering. THE INITIAL PRICE OFFERED MUST REMAIN VALID AT LEAST THROUGH APRIL 30, 2006.
 - 2. A Discount to Price-to-Beat service offering.
 - 3. A Renewable Energy service offering. The City of Houston supports Renewable Energy and would encourage REPs with the capability to do so to submit a proposal of this type in addition to those set forth above.
- b. Please specify any additional customer incentives (i.e. payment at beginning/end of term or other promotions) that you wish to include in any of the above offerings.
- c. State the time period, beginning on March 22, 2006 and ending no sooner than April 30, 2006 for which the pricing in subsection (a) above will be available.
- d. Will there be a penalty for early termination? (yes/no) If yes, what amount? _____
- e. Specify the amount (expressed in dollars per customer enrolled) that you would be willing to pay the City to defray the media costs it will incur to promote the Initiative. The answer to this question will not in anyway affect a REP's eligibility to participate in the Initiative.
- f. What credit criteria will be applied in evaluating potential customers?
- g. Will all customers willing to provide a security deposit for service be accepted regardless of that individual's utility payment data? (yes / no) If no, what is the minimum score, derived from a

potential customer's utility payment data, you will accept with a deposit and what deposit amount will you require?

Name, Printed or Typed

Signature

Date

ATTACHMENT “B”

Month	Total TDU Billing in Texas	Total Unused Cash Resources Supporting TDU Billing Obligation *
February 2004		
March 2004		
April 2004		
May 2004		
June 2004		
July 2004		
August 2004		
September 2004		
October 2004		
November 2004		
December 2004		
January 2005		
February 2005		
March 2005		
April 2005		
May 2005		
June 2005		
July 2005		
August 2005		
September 2005		
October 2005		
November 2005		
December 2005		
January 2006		

* See terms defined in section 1.3.1.2 of the RFP and Section 25.107 (f) (1) (A) (iii) of the Substantive Rules Applicable To Electric Service Providers.